

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**DAVID MITCHELL KNIBBS,**

Plaintiff,

v.

**CAROLYN W. COLVIN,**  
Commissioner of Social Security,

Defendant.

Case No. 6:11-cv-06208-JE

**ORDER**

**Michael H. Simon, District Judge.**

United States Magistrate Judge John Jelderks issued Findings and Recommendation in this case. Dkt. 73. Judge Jelderks recommended that a judgment should be entered affirming the Commissioner's decision.

Under the Federal Magistrates Act ("Act"), the Court may "accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate's findings and recommendation, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

Plaintiff timely filed objections. Dkts. 77, 80. Plaintiff argues that Judge Jelderks erred in various ways relating to his review of the ALJ's credibility determinations, assessment of Plaintiff's impairments, and review of the medical record. The Court has reviewed *de novo* those portions of Judge Jelderks' Findings and Recommendation to which Plaintiff has objected, as well as Plaintiff's objections and Defendant's response. The Court agrees with Judge Jelderks' reasoning that the ALJ provided clear and convincing reasons for concluding that the Plaintiff was not wholly credible, that the ALJ provided germane reasons for discounting the lay witnesses credibility, and the ALJ's determinations regarding Plaintiff's impairments and limitations were supported by substantial evidence in the record. The Court thus ADOPTS those portions of the Findings and Recommendation.

For those portions of a magistrate's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report[.]"); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (the court must review *de novo* magistrate's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the Court review the magistrate's recommendations for "clear error on the face of the record."

For those portions of Judge Jelderks' Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court ADOPTS Judge Jelderks' Findings and Recommendation, Dkt. 73. The Commissioner's decision is AFFIRMED and the case is DISMISSED with prejudice.

**IT IS SO ORDERED.**

DATED this 30th of May, 2014.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge